

Before the  
Federal Communications Commission  
Washington, D.C. 20554

JUN 25 2005

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 05-45
Table of Allotments,	)	RM-11147
FM Broadcast Stations.	)	RM-11246
(Atwood, Kansas, McCook and Ogallala, Nebraska,	)	
Burlington and Flagler, Colorado) <sup>1</sup>	)	

**ORDER TO SHOW CAUSE**

**Adopted: June 22, 2005**

**Released: June 24, 2005**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a counterproposal filed by KNAB, Inc. ("KNAB"), licensee of Station KNAB-FM, Channel 281C1, Burlington, Colorado, in response to the *Notice of Proposed Rule Making and Order to Show Cause* ("Notice") in this proceeding.<sup>2</sup> The counterproposal proposes the allotment of Channel 292C0 in lieu of Channel 280C0 proposed in the *Notice* which would provide Atwood with its first local aural transmission service.<sup>3</sup> To accommodate the proposal, KNAB also proposes the substitution of Channel 294C1 for Channel 293C1 at Ogallala, Nebraska. KNAB asserts that its counterproposal would better serve the public interest by providing a more efficient arrangement of allotments than the one proposed in the *Notice*. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Capstar TX Limited Partnership ("Capstar"), the licensee of Station KMCX-FM, Ogallala, Nebraska.

2. In order to proceed with our analysis of the counterproposal in this proceeding, it is first necessary to issue this *Order to Show Cause* directed to Capstar to show cause why Station KMCX-FM's license should not be modified to specify operation on Channel 294C1 in lieu of Channel 293C1 at Ogallala, Nebraska. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's

<sup>1</sup> The community of Ogallala, Nebraska, has been added to the caption.

<sup>2</sup> *Atwood, Kansas, McCook, Nebraska, Burlington and Flagler, Colorado*, 197 FCC Rcd 8082 (MB 2002).

<sup>3</sup> The allotment of Channel 292C0 is mutually exclusive to the proposed allotment of Channel 292C2 at McCook, Nebraska, required, *inter alia*, to accommodate the proposed allotment of Channel 280C0 at Atwood, Kansas. "A counterproposal is a proposal for an alternative and mutually exclusive allotment or set of allotments in the context of the proceeding in which the proposal is made." *Implementation of BC Docket 89-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931 (1990).

Rules.<sup>4</sup> In this instance, the substitution of Channel 294C1 for Channel 293C1 at Ogallala, Nebraska, will accommodate the allotment of Channel 292C0 at Atwood, Kansas, which will provide the community with its first local aural transmission service. We consider the provision of a first local service to Atwood to have sufficient public interest benefits to justify the issuance of a show cause order.

3. The Station KMCX-FM license at Ogallala, Nebraska, can be modified to specify operation on Channel 294C1 at its currently authorized transmitter site.<sup>5</sup> KNAB, Inc. has agreed to reimburse Capstar for the reasonable costs incurred in connection with Station KMCX-FM changing its frequency.

4. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Capstar TX Limited Partnership, licensee of Station KMCX-FM, Ogallala, Nebraska, SHALL SHOW CAUSE why its license should not be modified to specify operation on Channel 294C1 in lieu of Channel 293C1.

5. Pursuant to Section 1.87 of the Commission's Rules, Capstar TX Limited Partnership, may, no later than August 8, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises any substantial and material questions of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this *Order to Show Cause* and a final *Order* will be issued if the modification is found to be in the public interest.

6. IT IS FURTHER ORDERED, that a copy of this *Order to Show Cause* shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Capstar TX Limited Partnership  
2625 Memorial Drive, Suite A  
Tulsa, Oklahoma 74129  
(Licensee of Station KMCX-FM)

Dorann Dunkin, Esq.  
Wiley, Rein & Fielding, LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
(Counsel for Capstar)

7. Any response to this *Order to Show Cause* may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Protests should be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, TW-A325, Washington, D.C. 20554. Additionally, a copy of any filing should be served on:

Anne Goodwin Crump, Esq.  
Fletcher, Heald, Hildreth, P.L.C.

<sup>4</sup> See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

<sup>5</sup> The reference coordinates for Channel 294C1 at Ogallala, Nebraska, are 43-21-15 NL and 124-14-34 WL.

1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209  
(Counsel for KNAB, Inc.)

8. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Pennsylvania Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, Maryland 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. **All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission. Any filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. See 47 C.F.R. § 1.7. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.**

9. For further information on this proceeding, contact Sharon P. McDonald, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau